

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

**Diane Simmons ; Connie Skidmore ; Susan Smits ;
Diane Sneed ; Mary Stangle ; Laurel Starr ;
Darlene Stevens ; Donna Stevens ; Suzan Stitchick ;
Roa Sumler ; Dale Thompson ; Delores Thompson ;
Mildred Thompson ; Barry Truman ; Frances Diane
Trussell ; Sandra Tuck ; Alice Turner ; Clementine
Tyson ; Susan Uzelac ; Tonya Osborne Van Dyke ,**

Plaintiffs

v.

C.A. No. 04cv11257-GAO

**Indevus Pharmaceuticals, Inc., F/K/A Interneuron
Pharmaceuticals, Inc. ; Wyeth, Inc., F/K/A American
Home Products Corporation ; Wyeth
Pharmaceuticals, Inc F/K/A Wyeth-Ayerst
Pharmaceuticals, Inc., A Division Of American
Home Products Corporation ; and Boehringer
Ingelheim Pharmaceuticals, Inc.,**

Defendants

PLAINTIFFS' MOTION TO REMAND

Pursuant to 28 U.S.C. § 1447(c), plaintiffs hereby seek to remand this action to the Superior Court of the Commonwealth of Massachusetts, Middlesex County, where this action was originally filed. In support of this motion, plaintiffs state that the ground asserted for removal by defendants Wyeth, Inc. f/k/a American Home Products Corporation; and Wyeth Pharmaceuticals, Inc. f/k/a Wyeth-Ayerst Pharmaceuticals, Inc., a Division of American Home Products Corporation (collectively referred to as "Wyeth"), is improper.

More specifically, defendant, Indevus Pharmaceuticals, Inc., f/k/a Interneuron Pharmaceuticals, Inc. ("Indevus"), is a resident of Massachusetts and has not been

fraudulently joined. Wyeth cannot meet the high burden for fraudulent joinder as the allegations in the complaint and supporting affidavits show that plaintiffs have far more than a colorable claims against Indevus.

In support of this motion, plaintiffs rely upon their consolidated memorandum filed in *Amadeo, et al v. Indevus, et al*, No. 04cv11039, and supporting documents. Individual affidavits will be supplied if deemed necessary.

In the event that this motion is granted, plaintiffs request that this Court issue an order requiring that the removing defendants pay plaintiffs' just costs and any actual expenses, including attorneys fees, incurred as a result of the removal.

The Plaintiffs
By their attorneys,

/s/ Michael S. Appel
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Dated: July 8, 2004